

JUDGE RAKOFF

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LINDA THOMAS

DOC # 2

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC#
DATE FILED: 3/10/10

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

TEST QUEST, INC.

**COMPLAINT
FOR EMPLOYMENT
DISCRIMINATION**

Jury Trial: ☒ Yes ☐ No

(check one)

(In the space above enter the full name(s) of the defendant(s).
If you cannot fit the names of all of the defendants in the space
provided, please write "see attached" in the space above and
attach an additional sheet of paper with the full list of names.
Typically, the company or organization named in your charge
to the Equal Employment Opportunity Commission should be
named as a defendant. Addresses should not be included here.)

This action is brought for discrimination in employment pursuant to: (check only those that apply)

✓

Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

NOTE: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue Letter from the Equal Employment Opportunity Commission.

Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 - 634.

NOTE: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.

✓

Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 - 12117.

NOTE: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue Letter from the Equal Employment Opportunity Commission.

New York State Human Rights Law, N.Y. Exec. Law §§ 290 to 297 (age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status).

New York City Human Rights Law, N.Y. City Admin. Code §§ 8-101 to 131 (actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, sexual orientation, alienage, citizenship status).

I. Parties in this complaint:

- A. List your name, address and telephone number. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name Ms. Linda Thomas
 Street Address 15 EAST 109 STREET Apt. 6A
 County, City Manhattan, New York
 State & Zip Code New York 10029
 Telephone Number 917-596-3749

- B. List all defendants' names and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant Name TEST QUEST, INC.
 Street Address 336 West 37 Street, 5th Floor
 County, City Manhattan, New York
 State & Zip Code New York, 10018
 Telephone Number 212-239-0229

- C. The address at which I sought employment or was employed by the defendant(s) is:

Employer SAME AS ABOVE, TEST QUEST, INC.
 Street Address _____
 County, City _____
 State & Zip Code _____
 Telephone Number _____

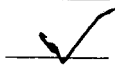
II. Statement of Claim:

State as briefly as possible the facts of your case, including relevant dates and events. Describe how you were discriminated against. If you are pursuing claims under other federal or state statutes, you should include facts to support those claims. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

- A. The discriminatory conduct of which I complain in this action includes: *(check only those that apply)*

☐ Failure to hire me.
☒ Termination of my employment.
☐ Failure to promote me.
☐ Failure to accommodate my disability.
☒ Unequal terms and conditions of my employment.

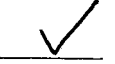
Retaliation.

Other acts (specify): I WAS discriminated against by hispanics + white employees.

Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.

B. It is my best recollection that the alleged discriminatory acts occurred on: October 22, 2008
Date(s)

C. I believe that defendant(s) (check one):



is still committing these acts against me.



is not still committing these acts against me.

D. Defendant(s) discriminated against me based on my (check only those that apply and explain):

race African American

color _____



gender/sex _____



religion _____



national origin _____



age. My date of birth is _____ (Give your date of birth only if you are asserting a claim of age discrimination.)



disability or perceived disability, mental health (specify)

E. The facts of my case are as follow (attach additional sheets as necessary):

I, Linda Thomas the plaintiff was wrongfully terminated by my employer TEST QUEST, INC. because of discriminatory practices.

See Notes -

Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, the New York State Division of Human Rights or the New York City Commission on Human Rights.

III. Exhaustion of Federal Administrative Remedies:

A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding defendant's alleged discriminatory conduct on: MAY 19, 2009 (Date).

My name is Linda Thomas I am an African American woman. I am 47 years old my date of birth is July 28, 1961. I began working for Test Quest Inc. on November of 2006 as a Tutor on part time basis. My work performance was satisfactory. I was never reprimanded.

On October 20, 2008, I was sitting with coordinator Arlenia Almonte who is an Hispanic female. I gave her at least six work assignments so that she could record it. Arlenia Almonte told me that I couldn't take six assignments. She told me that I could only take 2 assignments and these instructions came from Human Resources. I questioned why I was only able to take two assignments because I make less money by doing less assignments. Arlenia Almonte called Elizabeth Walker of Human Resources and let me speak to her. Elizabeth Walker said to me that a client complained about me knocking on her door and it would be best to just take two assignments. I took two assignments and gave them to Ms. Almonte. Ms. Almonte who is an Hispanic female walked over to Ms. Alexandra Castillo another Hispanic female coordinator and began speaking in Spanish. A. Castillo came and said that I threatened A. Almonte and I would not be getting anymore work assignments she told me to report to the Human Resources department. I went there and spoke to Ms. Elizabeth Walker and told her what actually happened at the office where I was working. Ms. E. Walker said she would investigate this matter and get back to me.

I went back to see Ms. E. Walker on October 22, 2008 at 11 am. Ms. E. Walker gave me a letter concerning what was said by the coordinators and Ms. E. Walker said that this matter was out of her hands and the President Tiffany Hott told her that I was terminated. I suffer with depression and I take medication. This doesn't stop me from performing my job duties.

On April 24, 2009. I called Human Resources of Test Quest Inc. and spoke to Ms. E. Walker. I asked her for my job back. I told her that I was wrongfully terminated. Ms. E. Walker told me to call the work assignment office to get work. When I called I was told that there weren't any work.

When my assignment was taken away, it was given to an Hispanic male tutor. Because Ms. Arlenia Almonte, Ms. Alexandra Castillo and the tutor who was given my assignment were all Hispanic, I was discriminated against. I never threatened any one. This was a pretext to give my assignment to an Hispanic. The clients were English speaking Hispanics. I was communicating with them in English without problems. I want back pay and damages.

A handwritten signature in black ink that reads "Linda Thomas". The script is cursive and fluid, with the first name "Linda" and last name "Thomas" clearly distinguishable.

Linda Thomas

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February 1, 2010

To: United States District Court Southern District of New York

RE: Employment Discrimination.

- 1) I, Linda Thomas is a member of a protected group. I'm African American Female, over 40 and have a disability.
- 2) I never received a progressive disciplinary procedure which include the following . **Step 1:** A verbal warning, with written verification in my employee personnel file. **Step 2:** A written warning detailing the exact nature of the problem and the measures the employee is expected to take to resolve it (including the time frame in which improvement is expected). **Step 3:** A specific period of probation during which the employee is put on notice that any further problems will result in more drastic disciplinary measures being taken. **Step 4:** Possible suspension without pay. **Step 5:** Termination.
- 3) I received a positive letter from Test Quest. See exhibit –A
- 4) I was wrongfully terminated on hearsay.

Unjust cause for Termination

- 1) I was never given an evaluation which would indicate poor work performance.
- 2) There was no reduction in force caused by economic conditions, a drop off in business, or a cutback in operations.
- 3) My job wasn't obsolete.

One incident with customer

- 1) I was ordered by Kathie Moran a manager, to visit a customer concerning a matter of the amount of time I had spent tutoring a kid. I spoke to the parent of the child about the discrepancy, she apparently didn't understand what I was trying to explain and she became agitated and frustrated. She threatened to call the police if I didn't leave her apartment after she invited me inside in the first place.

I have Good reference letters

- 1) I have several good references from customers. See exhibits.
- 2) I never received any training from Test Quest Inc. I did the best that I could, with no training.
- 3) I was terminated by Tiffany Hott, the president who is a white woman. Arlenia Almonte and Alexandra Castillo are Hispanics. This is a prima facie case of discrimination.

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Conclusion

I, Linda Thomas received a letter commenting me and asking me for my services. Test Quest also called me to return to work for them but I feared retaliation and I refused to come back to work on their terms.

Thank you for your consideration,

A handwritten signature in black ink that reads "Linda Thomas". The signature is written in a cursive, flowing style.

B. The Equal Employment Opportunity Commission (check one):

☒ has not issued a Notice of Right to Sue letter.
☐ issued a Notice of Right to Sue letter, which I received on December 30, 2009 (Date).

Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.

C. Only litigants alleging age discrimination must answer this Question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct (check one):

☐ 60 days or more have elapsed.
☐ less than 60 days have elapsed.

IV. Relief:

WHEREFORE, plaintiff prays that the Court grant such relief as may be appropriate, including injunctive orders, damages, and costs, as follows: \$ 150,000.00

emotional distress and financial damages.

(Describe relief sought, including amount of damages, if any, and the basis for such relief.)

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 19 day of February, 2010.

Signature of Plaintiff

Address

Paula Thomas

15 East 109 Street Apt. 6A
New York, NY 10029

Telephone Number

917-596-3749

Fax Number (if you have one)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: **Linda Thomas**
15 East 109th Street
Apt. 6-A
New York, NY 10029

From: **New York District Office**
33 Whitehall Street
5th Floor
New York, NY 10004



On behalf of person(s) aggrieved whose identity is
 CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

520-2009-02921

Patrick A. Sanford,
Federal Investigator

(212) 336-3677

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA **must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)



More than 180 days have passed since the filing of this charge.



Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.



The EEOC is terminating its processing of this charge.



The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, **the paragraph marked below applies to your case:**



The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice**. Otherwise, your right to sue based on the above-numbered charge will be lost.



The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission



Spencer H. Lewis, Jr.,
Director

DEC 30 2009

(Date Mailed)

Enclosures(s)

CC:

Respondent:
TEST QUEST INC.
Attn: Tiffany Hott, CEO
226 West 37th Street,
14th Floor
New York, NY 10018



336 WEST 37TH STREET, 5TH FLOOR
NEW YORK, NY 10018
PHONE: (212) 239-0227 ext: 112 FAX: (212) 239-0397

Monday, August 19, 2008

Dear: Linda Thomas

This letter is written to inform you that as of Monday August 25th 2008 work will be available. We valued your service last season and invite you to return for the 2008-2009 school year.

Please call the main office at 212-398-2357 if you have any questions regarding this matter.

Respectfully Yours,

A handwritten signature in black ink that appears to read "Harvey Hott". The signature is stylized with a long horizontal stroke extending to the right.

Harvey Hott
CFO

Elizabeth Walker

From: Alexandra Castillo

Sent: Monday, October 20, 2008 12:26 PM

To: Elizabeth Walker

Cc: Wendy Pascual; Kathie Morin

Hi liz,

As per our conversation, Linda Thomas was in the office today and she was told by Alexandra that she was only able to take 3 assignments she said that we where stopping her from doing her job that's when Alexandra gave you a call and you spoke to her which she said she was fine with taking the 3 assignments but as soon as you close the phone she told me to watch my back that's when I told Alexandra what she said and Alexandra removed the assignments she had and told her to go see you .

If you have any further question please contact me.

Thanks
Arlenia Almonte

CONFIDENTIAL

Tiffany Holt (president).
mail: Tiffiholt@aol.com.

6/6/08

TO: Test Quest

It was really nice
to have the tutor Linda coming
over working with my two
children Cynthia and Jonathan
It was nice to have services
like this to come and work
with the children at the home
And also she goes over the work
that they do. If it was not
I would always love the
services for my children
to learn more. It was nice
having her around.

Aimee Nadeau

3-9-08

Dear Test Quest
Your program has-
Really helped my child
Megan Jean-Charles
improve her reading
and writing skills.
She has had test-
Quest for 2 years
I am glad to have Linda
as a Tutor
~~Thank~~ Thank you very much

Charles

525 W 146th St Apt 35
New York, NY 10031-4504

Sign Marie Jean Charles

to test quest

I like the tutoring services
 ms. Linda Thomas has given to my
 son Ahmed my son has done very
 good with ms. Linda.
 I would like to thank you very much
 for the tutoring services for Ahmed

~~Sensety: Ibrahim Ahmed~~

Sensety: Ibrahim Ahmed

3-9-

Dear Test e
 Your progra
 Really help
 Megan Jean
 im prove
 And writing
 She has h
 Quest for
 I am glad to h
 as a Tutor
 Thank you,

Charles

525 W 146th St
 New York, NY 100

Sign Marie

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5/27/1

Hoy fue el ultimo dia
de ISmael.

El ha mejorado mucho
todo estuvo bien.

Pirian Helendez

"Today is the last day of the services and he
has gotten much better." And everything is good

to: Ms Linda
to: test class

It was really nice to
have the father Linda
coming over working. It
was nice to have you
here and it was nice to
work with you and
thank you for the ice
cream thank you for the
candy and thank you for
the trips you take me
like to the candy store
and the library. thank you
for everything you done.

From: Cathia
Calderson
~~3 Grade~~
Grade
to: test guest